# BEFORE THE FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS

## REQUEST FOR DUE PROCESS HEARING

### Individuals with Disabilities Education Act (IDEA)

### 20 U.S.C. § 1415 and Rule 6A-6.03311, Florida Administrative Code

**Petitioner:**

John Doe, Parent of John Doe Jr. (hereinafter "STUDENT")

v.

ANYTOWN SCHOOL DISTRICT

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## I. PARTIES

1. **Petitioner** is John Doe, the parent of John Doe Jr. ("STUDENT").

2. The **STUDENT** is currently enrolled in the sixth grade at ANYTOWN MIDDLE SCHOOL, a public school operated by ANYTOWN SCHOOL DISTRICT.

3. The STUDENT is a child with a disability who is eligible for special education and related services under the Individuals with Disabilities Education Act ("IDEA") and receives services pursuant to an Individualized Education Program ("IEP").

4. This complaint is brought pursuant to 20 U.S.C. § 1415(f), 34 C.F.R. Part 300, and Rule 6A-6.03311, Florida Administrative Code.

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## II. JURISDICTION

1. The Florida Division of Administrative Hearings ("DOAH") has jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 et seq., its implementing regulations, and Rule 6A-6.03311, Florida Administrative Code.

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## III. FACTUAL ALLEGATIONS

1. The STUDENT is eligible for special education under the IDEA and receives services pursuant to an IEP.

2. On or about yesterday, the STUDENT was removed from school and suspended for one (1) school day based upon allegations that he cursed at a teacher.

3. The STUDENT denies the allegation and maintains that he did not curse at the teacher.

4. Prior to this incident, the STUDENT had never been suspended, expelled, or otherwise removed from his educational placement for disciplinary reasons.

5. The STUDENT has no prior disciplinary history.

6. The District nevertheless imposed a one-day out-of-school suspension based upon an allegation that is disputed by the STUDENT and his parent.

7. The Parent believes the suspension was imposed without sufficient factual basis and that the disciplinary referral and suspension are inaccurate and should not remain part of the STUDENT's educational record.

8. The Parent seeks relief through this due process proceeding to protect the STUDENT's rights under the IDEA.

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## IV. ALLEGED VIOLATIONS

1. The Parent alleges that the District has improperly disciplined the STUDENT by imposing a suspension based upon allegations that are false.

2. The Parent contends that maintaining an inaccurate disciplinary referral and suspension in the STUDENT's educational records adversely affects the STUDENT's educational interests and rights under the IDEA.

3. The Parent requests that the Administrative Law Judge determine whether the District's disciplinary action should be rescinded and removed from the STUDENT's educational record.

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## V. PROPOSED RESOLUTION

The Parent respectfully requests that the Administrative Law Judge enter an Order:

A. Finding that the suspension was improper;

B. Ordering the District to immediately rescind the one-day suspension;

C. Ordering the District to expunge, delete, and permanently remove the disciplinary referral and all records relating to the suspension from the STUDENT's cumulative educational file and all electronic databases maintained by the District;

D. Ordering the District to ensure that no future educational, disciplinary, or placement decisions are based upon the rescinded disciplinary action;

E. Awarding such additional relief as the Administrative Law Judge determines is appropriate under the IDEA.

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## VI. RESOLUTION SESSION

The Parent requests that the District schedule the mandatory resolution session required by 20 U.S.C. § 1415(f)(1)(B), unless the parties mutually agree in writing to waive the meeting or participate in mediation.

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## VII. CONCLUSION

WHEREFORE, the Parent respectfully requests that the Florida Division of Administrative Hearings accept this Due Process Complaint, schedule the matter for hearing, and grant the relief requested herein.

Respectfully submitted,
/s/ JOHN DOE

**John Doe**
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